



▣ North Carolina Wildlife Resources Commission ▣

Gordon Myers, Executive Director

March 1, 2016

Representative Jamie Boles
N.C. House of Representatives
300 N. Salisbury Street, Room 528
Raleigh, NC 27603-5925

Representative Pat Hurley
N.C. House of Representatives
300 N. Salisbury Street, Room 532
Raleigh, NC 27603-592

Senator Shirley Randleman
N.C. Senate
300 N. Salisbury Street, Room 628
Raleigh, NC 27603-5925

Honorables:

The 2015 General Assembly directed the North Carolina Wildlife Resources Commission (WRC) to report to the Joint Legislative Oversight Committee on Justice and Public Safety on the number of complaints received against Commission law enforcement officers, the subject matter of the complaints, and the geographic areas in which the complaints were filed.

I am submitting this report in fulfillment of the requirements of Section 35.(b) of Session Law 2015-263. As directed in statute, this report provides the subject matter on each complaint filed against Wildlife Law enforcement officers along with geographic areas in which the complaints were filed for the year of 2015.

If you have questions or need additional information, please contact me by phone at (919) 707-0151 or via email at gordon.myers@ncwildlife.org.

Respectfully,

Gordon Myers
Executive Director



Wildlife Law Enforcement Public Complaint Review

March 1, 2016

Executive Summary

Since the North Carolina Wildlife Resources Commission was created by the General Assembly in 1947, the agency has been dedicated to the conservation and management of fish and wildlife for the benefit of citizens and sportsmen, and for future generations. Policies and programs are based on scientifically sound resource management, assessment and monitoring, applied research, and public input. Our mission statement is “to conserve wildlife resources and their habitats and provide programs and opportunities that allow hunters, anglers, boaters and other outdoor enthusiasts to enjoy wildlife-associated recreation.”

The North Carolina Wildlife Resources Commission’s Law Enforcement Division is charged with enforcing the game, fish, and boating laws of North Carolina as established by the N.C. General Assembly, §113-136 . Wildlife Officers are state law enforcement personnel with arrest authority for state and federal violations. Wildlife Officers enforce the game, fish and boating laws to protect the natural resources of the state and the safety of its citizens. In addition, they are authorized to arrest for any criminal offense committed in their presence.

The policy of the Wildlife Commission is to acknowledge and investigate allegations of misconduct or improper job performance to maintain accountability to the officer and the citizens of North Carolina. From January 1, 2015 through December 31, 2015, wildlife enforcement officers contacted 85,577 sportsmen engaged in boating, fishing, hunting, and trapping activities. These interactions resulted in the filing of ten on-duty complaints. An additional three complaints were alleged for officers that were off duty.

Statute Requirements

Session Law 2015-283 Section 35.(b)

The Wildlife Resources Commission shall report to the Joint Legislative Oversight Committee on Justice and Public Safety no later than March 1, 2016, and annually thereafter, on the number of complaints received against Commission law enforcement officers, the subject matter of the complaints, and the geographic areas in which the complaints were filed.

Regulatory Authority

Wildlife officers have regulatory enforcement granted by N.C.G.S. §113-136. Which include enforcement responsibilities for hunting, trapping and inland fishing in the state. Wildlife officers investigate all hunting accidents and publish an annual hunting related accident report. North Carolina hunting and trapping laws apply to all lands, public or private. Wildlife officers have authority to patrol all open fields and woodlands, including more than 2 million acres of North Carolina public game lands, to ensure compliance with state and federal fish and game laws.

§ 113-136. Enforcement authority of inspectors and protectors; refusal to obey or allow inspection by inspectors and protectors.

(a) Inspectors and protectors are granted the powers of peace officers anywhere in this State, and beyond its boundaries to the extent provided by law, in enforcing all matters within their respective subject-matter jurisdiction as set out in this section. (b) The jurisdiction of inspectors extends to all matters within the jurisdiction of the Department set out in this Subchapter, Part 5D of Article 7 of Chapter 143B of the General Statutes, Article 5 of Chapter 76 of the General Statutes, and Article 2 of Chapter 77 of the General Statutes, and to all other matters within the jurisdiction of the Department which it directs inspectors to enforce. In addition, inspectors have jurisdiction over all offenses involving property of or leased to or managed by the Department in connection with the conservation of marine and estuarine resources. (c) The jurisdiction of protectors extends to all matters within the jurisdiction of the Wildlife Resources Commission, whether set out in this Chapter, Chapter 75A, Chapter 143, Chapter 143B, or elsewhere. The Wildlife Resources Commission is specifically granted jurisdiction over all aspects of:

- (1) Boating and water safety;
- (2) Hunting and trapping;
- (3) Fishing, exclusive of fishing under the jurisdiction of the Marine Fisheries Commission; and
- (4) Activities in woodlands and on inland waters governed by G.S. 106-908 to G.S. 106-910.

In addition, wildlife law enforcement officers have jurisdiction over all offenses involving property of or leased by the Wildlife Resources Commission or occurring on wildlife refuges, game lands, or boating and fishing access areas managed by the Wildlife Resources Commission. The authority of protectors over offenses on public hunting grounds is governed by the jurisdiction granted the Commission in G.S. 113-264(c)

Wildlife officers are charged with enforcing the boating laws and regulations on the waters of the state. The primary objective of boating enforcement is safety. Wildlife officers have the authority to stop vessels for safety checks or violations, as authorized by N.C.G.S. §75A. Wildlife officers patrol over 5,000 square miles of inland streams, rivers, lakes and coastal waterways, 220 public boating access areas and conduct nationally recognized boating education courses. WLEO's conduct all boating accident investigations as well as publish an annual boating accident report. These officers enforce the Boating Safety Education Law, which requires anyone younger than 26 operating a vessel powered by 10 hp or greater motor on public waterways to have successfully completed an approved boating safety education course or otherwise be in compliance.

§ 75A-1. Declaration of policy.

It is the policy of this State to promote safety for persons and property in and connected with the use, operation, and equipment of vessels, and to promote uniformity of laws relating thereto. (1959, c. 1064, s. 1.) (a) Every wildlife protector and every other law-enforcement officer of this State and its subdivisions shall have the authority to enforce the provisions of this Chapter and in the exercise thereof shall have authority to stop any vessel subject to this Chapter. Wildlife protectors or other law enforcement officers of this State, after having identified themselves as law enforcement officers, shall have authority to board and inspect any vessel subject to this Chapter.

Investigation Policy

The policy of the Wildlife Resources Commission (WRC) is to acknowledge and investigate allegations of misconduct or improper job performance, in a manner that assures the community of prompt, corrective action when WRC employees conduct themselves improperly. All comments or complaints regarding employees, policies or procedures of the WRC shall be documented and investigated to the fullest extent possible.

The purpose of this policy is to establish guidelines and procedures for receiving, investigating and determining the disposition of allegations of misconduct or other complaints made against WRC law enforcement officers. This policy will also serve to protect WLEO's from unjustified complaints as they carry out assigned duties.

Investigations

Supervisory investigations are limited to those incidents or complaints of a minor nature, such as discourteous language or improper performance. These investigations will usually be initiated in one of the following ways:

- The supervisor observes the conduct or behavior that resulted in the complaint; or
- The complaint is delegated to the supervisor by the manager or Division Chief; or
- The supervisor receives the complaint from another employee of the agency.

Upon becoming aware of or receiving notification of a complaint on a subordinate or employee under their control, a supervisor shall take corrective actions immediately if the complaint is justified. The supervisor's investigation shall be limited to questioning the subordinate, witnesses and complainants, and securing all relevant evidence. The supervisor will keep the complainant informed of the status of the investigation when applicable. Supervisory investigations will be completed within seven (7) days of the assignment. Extensions may be granted by the manager, as necessary. Upon completion of the investigation, the supervisor shall forward a report of the alleged violation, all documents and evidence relating to the investigation and recommendations for further investigation or other disposition of the case to their manager. The manager will then forward the documents to the Division Chief or designee.

The Division Chief or designee shall review the report and supporting documents, and shall make final determination for the case, and, in the case of termination, make recommendations to the Executive Director, as follows:

- Sustained - Allegation is true, and action taken was inconsistent with policy.
- Not Sustained - There is insufficient proof to confirm or to refute the allegation.
- Sustained Other – Sustaining of violation or misconduct other than the allegations of the original complaint.
- Exonerated - Allegation true, but action taken was consistent with policy and normal procedures.
- Unfounded - Allegation is demonstrably false, or there is no credible evidence for support;
- Policy Failure - Allegation true, but action taken was consistent with policy.

Professional Standards

In order to fulfill the intent of Session Law 2015-283 Section 35. (b), the Law Enforcement Division is developing a system to track, document, and maintain WLEO complaints and commendations. The Law Enforcement Division has recently created a Professional Standards position to acknowledge and investigate public allegations of misconduct or unprofessional performance against WLEO's. Additionally, the Professional Standards Officer will document and maintain each complaint in regards to a WLEO.

Wildlife Enforcement Officer On-Duty Complaints

Geographic Location

Subject Matter of the Complaint

Pamlico County

January 2015, a citizen filed a complaint that a Wildlife Officer had federal authority over migratory birds in addition to state authority. The complainant stated "I do not think it is a good policy for our Wildlife Enforcement officers to serve two masters. Specifically, he should not be a Deputy of the U.S. Fish & Wildlife Service." The officer's jurisdiction over migratory birds is covered under a Memorandum of Understanding with the USFWS. This allegation was determined to be Unfounded.

Clay County

February 2015, a complaint was received for a December 2014 incident. Supervisors within the Law Enforcement Division were alerted that an officer allegedly committed a misdemeanor criminal violation. Investigation shows that there was sufficient proof to confirm the allegations. These allegations were Sustained and administrative action was taken.

Wilson County

February 8, 2015, a citizen alleged that, during a suspected DWI traffic stop, a Wildlife Officer was rude and told the driver that they should be more careful while operating a vehicle. After speaking with the complainant a short time later, it was evident the individual made conflicting statements and there is insufficient proof to confirm or refute the allegation. Therefore the allegation was determined to be Not Sustained.

Graham County

February 25th, 2015, a complaint was received for a September 15th, 2014 incident. The officer responded to a call of a hunting accident. A complainant alleged the officer's conduct was unprofessional when responding to the hunting accident. This allegation was Sustained and administrative action was taken.

Davie County	<p>April 13, 2015, a citizen alleged that the Wildlife Officer did not properly assist with an investigation into stolen tree stands and also made unprofessional comments on a social media website. Documentation and investigation shows that the officer conducted the investigation appropriately in attempting to assist the complainant. These allegations were determined to be Unfounded.</p>
Western NC	<p>May 5, 2015, allegations were made that Wildlife Officers had threatened to charge members of the NCSHP for dispatching injured bears and injured deer that had been involved in vehicle crashes. Interviews were conducted with each Wildlife Officer in District 9 and each Highway Patrolman in Troop G. This allegation was determined to be Unfounded.</p>
Edgecombe County	<p>June 6, 2015, a citizen alleged that a Wildlife Officer checked four subjects fishing and only issued a citation to the complainant. After speaking with the officer, the officer only saw one of the four subjects fishing. The officer then issued one citation to the complainant, as that was the only violation the officer could substantiate. This allegation was determined to be Unfounded.</p>
Catawba County	<p>August 15, 2015, a citizen alleged that a Wildlife Officer responded to a night deer hunting report, investigated, and ultimately charged the violator with the crime. The complaint further alleged the Officer unlawfully assisted the defendant in having the case dismissed. This specific case was prosecuted and the subject was found guilty in District Court. This allegation was determined to be Unfounded.</p>
Vance County	<p>September 2015, a citizen alleged that Wildlife Officers were assisting with a benefit hunt in an official capacity for disabled youth hunters and terminally ill hunters. This allegation was determined to be Sustained regarding fundraising for a disabled hunt on duty. Officers were counseled on how to officially conduct a benefit hunt in the future.</p>
Warren County	<p>October 8, 2015, a citizen alleged a Wildlife Officer drove around hunting club gates and was seen in the complainant's cove frequently on Kerr Lake. The investigation into the allegation concerning driving around hunting club gates showed that there was an open path around the gate for club members to utilize in driving around the gate, and the officer used the same path. The officer was investigating a crime on adjacent property that was reported to the officer by the landowner of the gated property. The United States Supreme Court has ruled that an officer on private property outside the curtilage are not</p>

conducting a search under the Fourth Amendment. The investigation into the allegation of patrolling the complainant's cove frequently showed that the officer was conducting routine patrols for boating activity on Kerr Lake. Investigation shows the allegations to be true but action was taken consistent with policy. These allegations were determined to be Exonerated.

Wildlife Officer Off-Duty Complaints

Location	Subject Matter of the Complaint
Robeson County	February 2015, an off duty Wildlife Officer was stopped for traffic violations. The Wildlife Officer was issued warning tickets for minor traffic violations. The Officer's actions were inconsistent with Wildlife Commission policy and the North Carolina motor vehicle law. This allegation was determined to be Sustained, and administrative action was taken.
Transylvania County	June 29, 2015, a citizen alleged that a Wildlife Officer stopped their vehicle in the roadway and confronted the complainant who was operating the vehicle behind the officer. The Wildlife Officer witnessed motor vehicle law violations. The officer's actions were inconsistent with Wildlife Commission policy. This allegation was determined to be Sustained, and administrative action was taken.
Vance County	December 2015, a citizen alleged that a Wildlife Officer violated state hunting laws while off duty. After speaking with the complainant, it was discovered that they had not witnessed the act but rather heard it from someone else. This allegation was determined to be Not Sustained, and no administrative action was taken.